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MICHAEL RODAK, JR., CLERK

No. 74-405

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1974

No. 74-405

Clifford E. Warren, Petitioner

v.

United States of America

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF CLAIMS

MEMORANDUM FOR THE PETITIONER IN REPLY TO RESPONDENTS OPPOSITION

Clifford E. Warren
Pro Se
2650 Marston Drive
Anchorage, Alaska 99503

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The respondent without an extension of time or a request for an extention of time for filing his opposition, has filed such opposition five days beyond the time alloted.

The petition was docket on Oct. 9, 1974 and respondent memorandum in opposition was due by Nov. 28, 1974. The memorandum in opposition by the respondent was filed Dec. 3, 1974.

Respondent has invoked 28 USC 2101 (C) as authority for dismissing the petition alleging that the time limit specified in 28 USC 2101 (C) is jurisdictional.

The last sentence of 28 USC 2101 (C) states, "a Justice of the Supreme Court for good Cause shown, may extend the time for applying for a writ of Certiorari for a period not exceeding sixty days."

28 USC 2101 (C) (last sentence) grants jurisdiction to grant an extension of time for good Cause at any time before or after docketing. It is self evident that the United States Congress never intended that 28 USC 2101 (C) would be invoked to create an injustice.

The intent of Congress is clear in that they gave jurisdictional authority to the Supreme Court in that when good cause was shown a time extension could be granted.

Further 28 USC 2101 (C) shows no intent of Congress to restrict applications for extensions of time to a 10 day period before docketing, nor does USC 2101 (C) show an intent to not grant extensions of time after docketing, when good cause was shown, that circumstances did not allow time to make such application or that the petitioner was not informed (as requested) that he was overdue or needed a time extension.

At the time of filing no. 74-405 petitioner furnished on affidavit from June Warren stating that she was the only one who could read her dictated notes and that unforseen illness had prevented her preparing the petition for printing.

Petitioner by letter enclosed with the petition also informed the clerk of that Court that he believed he was allowed mailing time from Alaska, and that the petition should arrive by the due date.

Petitioner further stated that if the petition arrived late he requested that the time be extended for the necessary time or that he be notified if a formal application for an extension of time would be needed. Petitioner was notified of the docketing and in turn as required notified the respondent. Petitioner heard nothing from the Clerk of the Court and believes he rightfully presumed that a time extension was not required or the one had been granted for the one day. Petitioner again brings to the Courts attention that he is a layman who has done his best tc Conform to the rules, and brings to the courts attention the following case law.

> "The Federal Rules of Civil Procedure are designed in large part to get away from some of the old procedural boobytraps which common law pleaders could set to prevent unsophisticated litigants from ever having their day in court. Rules of Civil Procedure not only permit, but should as nearly as possible guarantee, that bonafide complaints be carried to an adjudication on the merits."
>
> Surowitz v Hilton Hotels, 383 US 363, 86 S Ct 845

Petitioner recalls the late Chief Justice Warren leading the Supreme Court to a new era of justice where the basis of judgments was fairness not technicalities.

If petitioner needs an extension of time he requests that the honorable Court grant an extention.

In the petition page 70 para. 3 petitioner requested that the honorable Court entertain its own motion to Void, set aside or reverse judgement in the Court of Claims 231-68 and on page 66 of the petition cited case law where it is shown the Court has jurisdiction to act on its own motion and that motion from the petitioner is not necessary only that the complaint be brought to the courts attention.

The matters involved in the petition are an illegal and void judgment which involved.

1. Denial of Constitutional rights.
2. Conspiracy to Violate a federal statute.
3. A Violation of a federal statute.
4. Refusal to apply common law and that set down by the Supreme Court as to interperating contracts.
5. Refusal to apply a federal statute in making judgement.
6. Abnegation of judicial function.
7. Denial or impaired petioner and others similarly situated their Constitutional rights to contract or contract without impairment or fear.
8. Denied due process and rights and protections guaranteed under the fourth, fifth, and 14th amendments to the Constitution.
9. Established new contract law in defiance of common law and that set down by the U.S. Supreme Court. Which places an entire industry in jeopardy and which also creates a form of selective prosecution.
10. A judgement against public policy.

Petitioner prays that the honorable Supreme Court of the United States grant him